

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES SECURITIES AND	:	
EXCHANGE COMMISSION,	:	
	:	
Plaintiff,	:	
	:	<u>ORDER</u>
	:	19 Civ. 4355 (LGS) (GWG)
COLLECTOR'S COFFEE INC., et al.,	:	
	:	
Defendants.	:	
-----X	:	

GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE

With regard to the hearing on the SEC's motion for contempt (Docket # 452), the Court rules as follows:

- (1) The SEC shall provide a trial memorandum or letter on or before November 9, 2020, that describes precisely what additional conduct encompassed by Docket # 497 is the subject of the contempt application and sets forth any applicable law not already part of its motion papers. Defendant Mykalai Kontilai may respond by means of a trial memorandum or letter on or before November 16, 2020. No reply is necessary as the Court expects to permit post-hearing briefing.
- (2) New York State has imposed quarantine requirements on individuals arriving from a number of states. In addition, infections are on the rise and traveling may impose a serious risk to some individuals. In light of the fact that there are many out-of-state counsel and witnesses, the Court will hold the contempt hearing entirely by remote means. The Court will require a reliable platform. Other judges on this Court have found satisfactory a platform called "TrialGraphix." See, e.g., Order, dated October 14, 2020 in Flatiron Acquisition Vehicle LLC v. CSE Mortgage LLC, 17 Civ. 8987 (GHW) (S.D.N.Y.) (Docket # 157). However, the Court is open to any proposal for a reliable platform. The parties will have to pay any costs associated with the platform. If they cannot agree on a manner of payment, the only option may be to postpone the hearing until a time when quarantine restrictions are less onerous.
- (3) It will be unacceptable for any witness to testify from a car or any location other than a private and quiet room in a home or office. All witnesses must in advance provide the expected location (without a specific address) of their testimony and be available for conferencing by means of a separate phone line during their testimony. The phone number must be provided to the attorney calling that witness. The locations shall be included in the listing of witnesses that shall be filed on November 23, 2020 (see paragraph (7) below).
- (4) Once the platform is agreed upon, the parties shall provide a jointly proposed Order or competing proposed Orders similar to the order cited in paragraph (2) above; see also Order,

dated June 23, 2020 in FGIC v. The Putnam Advisroy Company, LLC, 12 Civ. 7372 (LJL) (S.D.N.Y.) (Docket # 322). The proposed Order may also include additional provisions that the parties believe are necessary or appropriate. The proposed Order shall be filed by November 16, 2020.

(5) The attorneys and any testifying party must participate in a “dry run” of the platform at least one week in advance of the conference. This requirement may be further fleshed out in the proposed Order.

(6) Mykalai Kontilai must provide his testimony from a jurisdiction where it is legally permissible to do so. On or before November 16, 2020, Mykalai Kontilai shall file a sworn statement describing what arrangements he will make to travel to a private room in an appropriate jurisdiction and shall provide the location of the room.

(7) The proposed Order shall provide that the parties must file a listing of witnesses and proposed exhibits on or before November 23, 2020. (Plaintiff shall use numbers to designate exhibits. Defendant shall use letters). Any proposed Order shall require that copies of those marked exhibits shall be provided to the Court in pdf form on a CD-ROM disk mailed to or delivered to Chambers on November 23, 2020. The parties may wish to propose separate procedures for potential cross-examination documents as was true in the orders cited in paragraphs (2) and (4) above. The proposed Order shall provide that the parties shall file any deposition designations on or before December 1, 2020.

SO ORDERED.

Dated: October 30, 2020
New York, New York



GABRIEL W. CORENSTEIN
United States Magistrate Judge